

Sandwell Metropolitan Borough Council

16 January 2018

Subject:	Senior Management Arrangements in Children Services – Appointment to the post of Director of Children Services
Director:	Chief Executive – Jan Britton Executive Director of Resources – Darren Carter
Contribution towards Vision 2030:	
Contact Officer(s):	Tara Malik Service Manager / Trust Project Director 0121 569 3653

DECISION RECOMMENDATIONS

That the Council is requested to:

1. Approve the proposal to recruit to the post of Executive Director of Children Services (referred to as the Director of Children Services within the remainder of the report) on a permanent basis.
2. Delegate authority to the Chief Executive to determine the working hours required by the Director of Children Services to undertake the duties contained within this report, which is expected to be no less than three days per week.

1 PURPOSE OF THE REPORT

- 1.1 This report sets out the rationale and recommendation to commence the recruitment to the statutory post of Director of Children Services.

2 IMPLICATION FOR SANDWELL'S VISION

- 2.1 The council retains a statutory leadership and commissioning role for children and young people after the Sandwell Children's Trust is established. It is therefore important that the Council has the appropriate capacity following the creation of the Trust, to deliver Sandwell's ambitions for improving outcomes and life opportunities for children and families, through driving effective partnership working and commissioning the activity required.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The Chief Executive continues to monitor senior management arrangements across the council to ensure their efficiency, effectiveness and ability to respond to future challenges.
- 3.2 Cabinet received a report on the Senior Management Restructure of the Council in February 2017. The report set out a series of changes to the structure of the council in response to the changing and challenging external environment. Many of these structural changes have been implemented.
- 3.3 However, with the DCS role currently filled on an interim basis and the establishment of the Sandwell Children's Trust which will take effect in the new year, it is timely for the Council to consider making an appointment to the role of DCS on a permanent basis. It needs to be acknowledged that whilst the DCS will retain their statutory responsibilities the post will no longer have operational responsibilities for Children's Social Care services. This needs to be reflected when recruiting to the role.
- 3.4 At its meeting on 19 October 2016, Cabinet was advised of the Government's Statutory Direction (under Section 479A of the Education Act 1996) to set up a new arrangement in the form of a children's trust to deliver children's social care services for a period of time.
- 3.5 The Statutory Direction sets out the requirement to establish a Sandwell Children's Trust as a new and distinct legal entity to provide high quality children's social care services in Sandwell on behalf of the Council. The Trust, although wholly owned by the council, shall have day-to-day

operational independence in the management and delivery of these services and it will be managed by a board of executive and non-executive directors.

- 3.6 Significant progress is being made in establishing the Trust which is due to go live in April 2018.

Retained Statutory Responsibility of the Local Authority

- 3.7 Although the Trust will be operationally independent in the delivery of children's social care services, statutory responsibility for these services will be retained by the Council.
- 3.8 The Children Act 2004 places a duty on local authorities to appoint a Director of Children's Services (DCS) and a Lead Member for Children's Services (LMCS). Their specific responsibilities are set out within s.18 (2) of this act.
- 3.9 The DCS and the LMCS are appointed for the purposes of discharging the education and children's social services functions of the local authority. Within this framework, individual local authorities can determine their own organisational structures to suit local circumstances. However, local authorities must ensure that there is both a single officer and a single elected member each responsible for both education and children's social care.
- 3.10 The DCS and LMCS should have an integrated children's services brief. The DCS having professional responsibility for children's services and LMCS having political responsibility. These roles provide a clear and unambiguous line of professional and political accountability for children's wellbeing. Together with the Chief Executive and Leader, the DCS and LMCS have a key leadership role both within the local authority and working with other local agencies to improve outcomes for children and young people.
- 3.11 Due to the importance of this function, the statutory guidance states that local authorities should give "due consideration to protecting the discrete roles and responsibilities of the DCS and LMCS before allocating them to any additional functions other than children's services".

Specific DCS responsibilities

- 3.12 The DCS has professional responsibility for the leadership, strategy and effectiveness of local authority children's services and should be at first tier officer level, reporting directly to the Chief Executive.
- 3.13 The DCS is responsible for securing the provision of services that address the needs of all children and young people and their families, including the most vulnerable.
- 3.14 In discharging these responsibilities, the DCS must lead, promote and create opportunities for cooperation with other local partners (for example, health, police, schools, housing services, early years, youth justice, probation, higher and further education, and employers) to improve outcomes for children and young people.
- 3.15 As a statutory member of the local health and wellbeing board, the DCS has a clear role in driving the development of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy, promoting the interests of children and young people and their families. The DCS should also help join up local commissioning plans for clinical and public health services with children's social care and education to address local need. The DCS is also responsible for any agreements made under the s.75 of the National Health Service Act 2006 between the local authority and NHS relating to children and young people e.g. pooled budgets for commissioning integrated services.
- 3.16 The DCS will also ensure effective partnership working relationships between the Health and Wellbeing Board and the Local Safeguarding Children Board. In addition, there will be a need to establish an overarching strategic partnership to improve outcomes for all children, not just safeguarding. This wider partnership forum does not currently exist and will be a key task for the DCS to establish and ensure that partnership arrangements are fit for purpose and effective for the new landscape.
- 3.17 The DCS should work with partners to promote prevention and early interventions so that emerging problems are dealt with before they become more serious.
- 3.18 The DCS should ensure fair access to all schools, promote a diverse supply of strong schools and promote high quality early years provision.
- 3.19 The DCS is responsible for the performance of local authority functions relating to education and children's social care.

- 3.20 The DCS is responsible for ensuring that effective systems are in place for discharging these functions, including where a local authority has commissioned any services from another provider rather than delivering them itself. The corporate model for the Trust is a company limited by guarantee, wholly owned by the council. As such, the council is still the body responsible and accountable for the discharge of children's social care services functions.
- 3.21 The DCS and LMCS will have joint responsibility to ensure that Cabinet is kept fully informed about performance against the contract.

Proposed DCS role in Sandwell

- 3.22 In order to fulfil its statutory duties and ensure the best outcomes for children and families in Sandwell, the council needs to ensure that the whole system of services for children and young people is operating effectively. The statutory responsibilities of the DCS and LMCS set out above, illustrate the key leadership role retained by the local authority to ensure that all activities to support children are coordinated and galvanised effectively. The future success of the Trust will be dependent on it operating within a robust, effective context of partner activity.
- 3.23 A significant proportion of the responsibilities of a traditional DCS will rest with the Trust in the future, however the statutory accountability will remain with the Council. This presents a challenge to successfully recruiting a suitably experienced candidate.
- 3.24 The Chief Executive has explored different options to recruit to the role and tested the market by consulting with a number of recruitment advisors. The collective advice is that in light of a challenging landscape for the recruitment of experienced DCS's and a role that requires an emphasis on partnership working and commissioning skills the best chance of securing the mix of expertise and experience required by Sandwell is to offer the post on a three day per week basis as a minimum.
- 3.25 Although the market for recruiting Director of Children Services is challenging, it is considered that the flexibility of a part time role as outlined above is more likely to attract high calibre candidates who are open to new and innovative ways of working, within the landscape of alternative delivery models such as a Trust.
- 3.26 This report therefore recommends that the Chief Executive be authorised to commence the recruitment of the Director of Children Services, appointed to a minimum number of three days per week, in order to lead this key function in the council.

4 THE CURRENT POSITION

- 4.1 The DCS role is currently filled on an interim basis and with the establishment of the Sandwell Children's Trust which will take effect in the new year, it is timely for the Council to consider making an appointment on a permanent basis.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 The Leader and Cabinet Member have been consulted with. At this stage, there are no additional requirements to consult with other stakeholders.

6 ALTERNATIVE OPTIONS

- 6.1 In the February 2017 Cabinet Report a full options appraisal was considered that informed the development of the Council's Senior Management Arrangements. This work underpins the proposal set out in this Report.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 There are no additional resources required.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 It is the duty of the Chief Executive as the Head of Paid Service, where he considers it appropriate to do so, to prepare a report and seek approval of the Council in respect of the following:
- (1) The manner in which the discharge by the authority of its different functions is coordinated;
 - (2) The number and grades of staff required by the authority for the discharge of its functions;
 - (3) The organisation of the authority's staff; and
 - (4) The appointment and proper management of the authority's staff.
- 8.2 Following consultation, the agreed changes to the role of the Director of Children's Services will take effect.
- 8.3 Under Section 479A of the Education Act 1996, the Secretary of State has the power to give a local authority such directions as the Secretary of State thinks fit to enable the functions under this legislation (children's social care functions) to be performed to an adequate standard. The Statutory Direction sets out that a newly created body is established to deliver the Council's children's social care services, to be called a children's trust.

- 8.4 The Trust will be operationally independent in the delivery of children's social care services, whilst statutory responsibility for these services will be retained by the Council. Accordingly, the statutory role of the Lead Member for Children's Services will continue to be provided by the Council. The Lead Member as a member of the Council's Cabinet has political responsibility for the leadership, strategy and effectiveness of local authority children's services. The Lead Member is democratically accountable to local communities and has a key role in defining local vision and setting political priorities for children's services within the broader political context of the Council. The Council must balance its oversight of the Trust whilst enabling the Trust to be operationally independent.
- 8.5 In addition, the Council will continue with its role as corporate parent. Elected members of the Council are the corporate parent for the Council's Looked After Children and have a collective responsibility across the local authority to safeguard and promote the life chances of Looked After Children. This will include ensuring the appropriate contribution from education and other services retained by the Council.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 The proposal in this report is for the recruitment to the single post of Director of Children Services. It is assessed that an Equality Impact Assessment is not required as the recruitment will be undertaken following the council's recruitment and selection policies which will ensure that a fair and non-discriminatory process is undertaken. In addition as an organisation, the Council strives to employ a workforce that broadly reflects the borough and the people who live here. Improving diversity at the Senior Management tier is recognised by the Chief Executive as a priority. Through the recruitment process, applications from under-represented groups will be encouraged

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 All personal data held as part of any recruitment activity will be processed in accordance with the Data Protection Act (1998).

11 CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 There are no crime and disorder implications arising from the proposals contained in this report.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 The proposal to recruit to the statutory role of Director of Children Services has been considered within the context of national policy, reducing resources and the implications of the establishment of the Trust. In this respect, the proposal to continue to have a Director of Children Services has as far as possible been future proofed.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The proposals contained in this report have been considered within the context of the council's wider responsibility to ensure that the best outcomes for children and young people are achieved, including their health and wellbeing.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 There are no implications arising from this report in regard to the management of land and property.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 With the Children's Trust Implementation due for completion in April 2018, there is a need to ensure plans are in place to recruit a DCS in order for the Council to discharge its statutory duties across the whole of children's services. This will include assuring the council that the Children's Trust discharges its functions and responsibilities.
- 15.2 Given the landscape for recruitment, it is believed the best way to recruit a high calibre DCS would be to offer the flexibility of no less than three days per week. Therefore for the reasons set out in this report, it is recommended that the council approves the recruitment of a DCS, and that the Chief Executive has the flexibility to define the working hours, to be no less than three days per week.

16 BACKGROUND PAPERS

- 16.1 There are no background papers in connection with this report.

17 APPENDICES:

- 17.1 There are no appendices attached to this report

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